

Coluccio, Tina (DNRE)

From: Thomas, Chuck (DNRE)
Sent: Wednesday, March 10, 2010 1:17 PM
To: Coluccio, Tina (DNRE)
Subject: FW: Public hearing statement
Attachments: Public Informational Meeting Statement for 09-63-0087-P & 09-63-0001-M.doc;
PPTquestionnaire for 8-19-09 LWMD public hearing.doc

Humboldt Kennecott file

Chuck Thomas
Ground Water Engineer
MDNRE
Upper Peninsula District Office
Phone: 906-346-8534

From: Milne, James (DEQ)
Sent: Thursday, January 21, 2010 10:11 AM
To: Gustafson, Cary (DEQ)
Cc: Thomas, Chuck (DEQ)
Subject: RE: Public hearing statement

Attached is the opening statement for a public informational meeting I held before the start of the public hearing for 09-63-0087-P. Melanie Foose was the hearing officer & did the opening statement for the formal public hearing, which should be in CIWPIS. I brought the relevant sections of Part 301 & the 301 rules, the description of the contested case hearing process & the DEQ public participation guide (the booklet w/ the black cover) as handouts. I also attached the audience survey I used.

For something as controversial as Kennecott, I suggest you confer w/ Chuck Thomas about designing the public participation process. Chuck can help you use the public participation technique selection matrix we devised for the Leadership Academy (there's a link to the matrix on the Leadership Academy's intranet page).

I'm co-sponsoring an action learning team for this year's Leadership Academy on public participation in high-profile projects. Let me know when you get an application & the file # and I'll pass that info along to the team to see if that's something they want to observe or perhaps assist field staff.

From: Gustafson, Cary (DEQ)
Sent: Thursday, January 21, 2010 9:28 AM
To: Milne, James (DEQ)
Subject: Public hearing statement

Do I recall that you ramrodded the latest and greatest hearing statement. Where can I find it? We have a big one coming up for the Kennecott road.
Thanks

3/10/2010

Public Informational Meeting Statement

Good evening ladies and gentlemen and thank you for coming to tonight's public informational meeting and public hearing. I'm Jim Milne with the DEQ, Land and Water Management Division in Lansing. With me here tonight is Melanie Foose, DEQ, Land and Water Management Division, Southeast Michigan District Office.

Unless you are an emergency responder or an on-call physician, I now request that you be respectful of other people in the audience by turning off your cell phone, or at least have the audible ringer turned off. All cell phone conversations are to be carried on outside this room.

The purpose of this public informational meeting is to provide you with some general information regarding the formats and purposes of tonight's public informational meeting and public hearing and to talk about what is and what isn't regulated under Part 301, Inland Lake and Streams, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (otherwise known as the NREPA).

Next we'll answer questions from the audience until the start of the formal public hearing at 7:30. If we don't have time to answer all of your questions before the start of the formal public hearing, we'll stay after the end of the formal public hearing until your questions are answered.

The purpose of the public hearing is to record your comments on the proposed project for the administrative record for these permit applications. We will also accept written comments, both tonight and for 10 calendar days after today. We won't be able to respond to your questions during the public hearing but we will answer your questions before and after the public hearing.

When you came in, you were requested to fill out an attendance card and indicate whether you wish to make a statement for the administrative record. During the public hearing, Melanie will first call those people who indicated on their cards that they wished to make a statement on the record. Then anyone else who wishes to make a statement on the record can do so.

On your seat you found a survey. We're trying some different public participation techniques tonight than we usually do at our formal public hearings. Your survey will help us evaluate the effectiveness of these techniques and will help us recommend ways that the DEQ can be more effective in communicating with the public and participating with them in the decision making process. We want to hear your opinions!

There's a box at the entrance to collect the surveys when you leave tonight. If you want to take the survey home with you and fill it out later, my fax number and e-mail address are on the survey.

At the entrance there's a slip of paper with the addresses for the DEQ's web sites for the DEQ home page, our joint permit application with the Army Corps of Engineers, and our inland lakes and streams and marinas. We brought copies of the DEQ's Public Involvement Handbook: A Citizen's Guide, which contains basic information on state government; the laws and administrative rules that DEQ administers and the permit process; ways that the public can be informed about what the DEQ is doing and how the public can participate in making administrative rules and the permitting process. Also available are copies of the permit review criteria for marina projects in Part 301, Inland Lakes and Streams, and the Part 301 administrative rules. There's also a handout describing the contested case process for appealing an action by the DEQ.

The permit review criteria under Part 301 includes whether the proposed project impacts natural resources, public trust waters, riparian rights, marine safety and navigation and compliance with local ordinances. The waters of navigable inland lakes and streams are held in trust for the benefit of the public for uses such as navigation, commerce and recreation. Shoreline or riparian property owners have rights which include access to navigable waters, dockage and reasonable domestic use of the waters.

The bottomlands of inland lakes and streams are normally divided among all of the riparian property owners. The portion of the inland lake or stream bottomland belonging to the riparian property owner is called their riparian interest area or RIA. Some inland lakes in Michigan, including Deer Lake, have platted bottomland parcel boundaries which do not correspond with the RIA boundaries. [Pointing at site plan on easel] If you look at the proposed site plan for this marina project, you see that the RIA boundaries angle to the left, as seen from the shoreline while the platted bottomland parcel boundaries angle to the right, as seen from the shoreline.

Are both of these methods of apportioning the Deer Lake bottomlands legal? If so, which method should be used? The short answer right now is I don't know. The Michigan Department of Attorney General has a law student researching this issue right now. Ultimately this issue may need to be resolved in court with a judge's ruling.

A ruling in a previous administrative contested case hearing directed the DEQ to request a RIA estimate survey, sealed by a licensed surveyor, and to use the sealed RIA estimate survey in making its permit decision. The applicant, the Deer Lake Estates Association, has submitted a sealed RIA estimate survey.

If the township objects to the proposed project during the public notice period, the DEQ gives the applicant 30 days after the expiration of the public notice period to try to resolve the township's issues. If they are unable to resolve their issues within that 30 day period and the township doesn't take action to restrain

operation of the marina, the DEQ has the option to issue the permit if the application meets all other criteria.

The DEQ's regulatory authority for inland lakes and streams extends to the ordinary high water mark of the inland lake or stream. We do not have regulatory authority over upland activities such as road traffic or parking. Your concerns on those issues should be addressed to the township.

I ask that we all be courteous and respectful to one another tonight. Only one person should be speaking at a time. If I forget to repeat the question for the audience, please remind me. Please do not interrupt a speaker and please also recognize that the DEQ staff are here tonight to provide a fair opportunity for everyone to have their questions answered and for everyone to express their comments on the project.

This concludes my introductory remarks. Now we'll begin answering your questions. Thank you for participating in tonight's public meeting and public hearing.

Questionnaire for Feedback on the Effectiveness of Public Participation Techniques

Background:

This questionnaire was developed as part of a team project for the Michigan DEQ/MDA/DNR Leadership Academy, for the purpose of identifying ways in which the public is or could be involved in government processes, and to test and recommend effective public participation techniques. This project focused strictly on public participation techniques related to controversial, large and complex projects, or administrative rule making hearings. DEQ Land and Water Management Division (LWMD) staff will use this information to better understand what is working well, and what improvements could be made to future public hearings and public meetings. Thanks in advance for taking the time to fill out the questionnaire. We value your input!

Directions:

Considering the informal public information meeting and formal public hearing held on August 19, 2009 for Deer Lake Estates Association, marina construction permit application number 09-63-0087-P, and marina operating permit application number 09-63-0001-M, please rate the following statements on a scale of 1 – 6. You may write your opinions in the space below each question. If you have no opinion, circle #7 for "don't know".

Strongly disagree	Disagree	Some-what disagree	Some-what agree	Agree	Strongly agree	Don't know
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The public notice and notices of the formal public hearing and public informational meeting were effective in notifying interested parties about this public hearing and public informational meeting.

1 2 3 4 5 6 7

Comments:

I appreciated being greeted by DEQ staff when I entered the meeting room.

1 2 3 4 5 6 7

Comments:

The registration process was efficient.
Describe how attendees were registered:

1 2 3 4 5 6 7

Participants understood the formats of the public informational meeting and the formal public hearing.

1 2 3 4 5 6 7

Comments:

Participants understood the purposes of the public informational meeting and the formal public hearing.

1 2 3 4 5 6 7

Comments:

Participants understood the permit review criteria in the statutes and/or administrative rules for the proposed project. 1 2 3 4 5 6 7
Comments:

The formats of the public informational meeting and the formal public hearing gave everyone ample opportunity to be heard. 1 2 3 4 5 6 7
Comments:

There was courteous interaction between speakers and hearing officers. 1 2 3 4 5 6 7
Comments:

There was courteous interaction between speakers representing differing opinions. 1 2 3 4 5 6 7
Comments:

There was a good mix of viewpoints. 1 2 3 4 5 6 7
Comments:

DEQ gained new or clarifying information that will help it make its decisions on these permit applications. 1 2 3 4 5 6 7
Comments:

The public informational meeting and public hearing were successful. 1 2 3 4 5 6 7

Please explain your ranking of the previous statement about success. _____

Considering this public informational meeting and formal public hearing:

Was holding a public informational meeting before the start of the formal public hearing beneficial? YES NO
NO OPINION
Comments:

Were representatives of the permit requester present (if applicable)? YES NO

If yes, was this a positive or negative influence on the proceedings? POSITIVE NEGATIVE NEUTRAL

Were elected governmental officials present? LOCAL STATE NONE

Please suggest how DEQ can improve its next public informational meeting and public hearing. _____

Please return your completed questionnaire to the DEQ staff before you leave tonight's public informational meeting and public hearing. If you would like more time to consider and complete this questionnaire, please send the completed questionnaire to Jim Milne by fax, 517-373-6917, or e-mail, milnej@michigan.gov.

Thank you again for your participation!